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Can Committee on (Senate), 1957/58  
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1957-58 Second Session

THE SENATE OF CANADA



PROCEEDINGS

OF THE  
STANDING COMMITTEE  
ON

NATURAL RESOURCES

To whom was referred the Bill (L), intituled: "An Act to amend  
the Territorial Lands Act".

No. 3

The Honourable Cyrille Vaillancourt, Chairman

THURSDAY, JANUARY 9, 1958

WITNESSES

The Honourable Francis Alvin G. Hamilton, P.C., Minister, Department  
of Northern Affairs and National Resources.

The Honourable E. Davie Fulton, P.C., Minister, Department of Justice.

The Honourable J. W. C. Spooner, Minister, Department of Mines,  
Province of Ontario.

Mr. R. G. Robertson, Deputy Minister, Department of Northern Affairs  
and National Resources.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1958



STANDING COMMITTEE

ON

NATURAL RESOURCES

The Honourable Cyrille Vaillancourt, Chairman

The Honourable Senators

Aseltine	Farquhar	Paterson
Barbour	Fraser	Pearson
Basha	*Haig	Petten
Beaubien	Hawkins	Power
Bois	Hayden	Raymond
Bouffard	Horner	Stambaugh
Burchill	Kinley	Taylor (Norfolk)
Cameron	*Macdonald	Taylor (Westmorland)
Comeau	MacKinnon	Turgeon
Crerar	McDonald	Vaillancourt
Davies	McKeen	Vien
Dessureault	McLean	Wood (38)
Dupuis	Methot	
Emerson	Nicol	

40 Members

(Quorum 9)

\*Ex Officio member

## ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate

THURSDAY, October 31, 1957.

"Pursuant to the Order of the Day, the Honourable Senator Haig, P.C., moved, seconded by the Honourable Senator Aseltine, that the Bill (L), intituled: 'An Act to amend the Territorial Lands Act', be now read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Haig, P.C., moved, seconded by the Honourable Senator Aseltine, that the Bill be referred to the Standing Committee on Natural Resources.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,  
*Clerk of the Senate.*





## MINUTES OF PROCEEDINGS

THURSDAY, January 9, 1958.

Pursuant to adjournment and notice the Standing Committee on Natural Resources met this day at 11.00 a.m.

*Present:* The Honourable Senators Vaillancourt, Chairman; Barbour, Burchill, Cameron, Crerar, Dessureault, Haig, Hawkins, Macdonald, McLean, Methot, Pearson, Taylor (*Norfolk*), Taylor (*Westmorland*) and Vien—15.

*In attendance:* Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel. The Honourable Francis Alvin G. Hamilton, P.C., Minister, Department of Northern Affairs and National Resources. The Honourable E. Davie Fulton, P.C., Minister, Department of Justice. The Honourable J. W. C. Spooner, Minister, Department of Mines, Province of Ontario. Mr. R. G. Robertson, Deputy Minister, Department of Northern Affairs and National Resources. Mr. G. Carty, Executive Assistant, Department of Northern Affairs and National Resources. Mr. W. R. Jackett, Deputy Minister, Department of Justice. Mr. E. A. Driedger, Assistant Deputy Minister, Department of Justice.

Consideration of Bill L, "An Act to amend the Territorial Lands Act", was resumed.

The Honourable Francis Alvin G. Hamilton, P.C., was heard in explanation of the Bill and was questioned thereon. He informed the Committee that in view of apparent misunderstanding of the Bill in its present form it was decided to present for the consideration of the committee the following amendment:—

"1. Paragraph (g) of section 2 of the Territorial Lands Act is repealed and the following substituted therefor:

(g) 'territorial lands' means

- (i) lands in the Northwest Territories or in the Yukon Territory, and
- (ii) lands underlying any of the waters included within the boundaries of the Provisional Districts of Mackenzie, Keewatin and Franklin, as described in the annex to the Order of the Governor in Council made on the 16th day of March, 1918,

that are vested in the Crown or of which the Government of Canada has power to dispose; and"

The Honourable E. Davie Fulton, P.C., was heard with respect to the legal aspects of the Bill, and was questioned thereon.

Mr. R. G. Robertson, Deputy Minister, Department of Northern Affairs and National Resources, was also heard in further explanation of the Bill and was questioned thereon.

The Honourable J. W. C. Spooner, Minister of Mines, Province of Ontario, was again heard.



On MOTION of the Honourable Senator Vien it was ORDERED that the following documents be made available for the use of the Committee at its next sitting:—

1. Order in Council No. 655 dated 1918.
2. Copy of the proposed amendment.
3. Copy of the Ontario Boundaries Extension Act, which appears in the Statutes of Canada for the year 1912, Chapter 40.

Motion carried.

At 12.45 p.m. the Committee adjourned to the call of the Chair.

Attest.

A. Fortier,  
*Clerk of the Committee.*

## THE SENATE STANDING COMMITTEE ON NATURAL RESOURCES

### EVIDENCE

OTTAWA, Thursday, January 9, 1958.

The Standing Committee on Natural Resources met this day at 11 a.m.

Senator Vaillancourt in the Chair.

The CHAIRMAN: We have with us this morning the Minister of Northern Affairs and National Resources, Hon. Mr. F. A. G. Hamilton. Before we proceed any further we should hear Mr. Hamilton.

Hon. Mr. HAMILTON: Mr. Chairman and honourable senators, this bill concerns itself with an administrative matter in the Department of Northern Affairs and National Resources and it is intituled An Act to amend the Territorial Lands Act. The bill has been before my department, the Department of Justice, and the Government for two years. The purpose of the bill is to meet an administrative problem of the department in recording some claims of mining companies in the northern areas to mineral lands which are under the water or partially under water in Hudson Bay and in Ungava.

At first it was thought to make an amendment to the Northwest Territories Act but this did not seem to be satisfactory, so finally it was decided to amend the Territorial Lands Act. It is sought to add to the present act this clause:

(g) "territorial lands" means

- (i) Lands in the Northwest Territories or in the Yukon Territory, and
- (ii) any other lands forming part of Canada but not included within any of the provinces, that are vested in the Crown or of which the Government of Canada has power to dispose;

To me that provision seems very clear and we in the department certainly were surprised at the misinterpretation and misunderstanding that seems to have arisen.

I have described the purpose of the bill as being purely administrative for the department and to us it seems very clear what it means. When I say "any other lands forming part of Canada but not included within any of the provinces, that are vested in the Crown" it strikes me that is as clear as we can make it.

We seek no power to take over the land of any province or any area not described as being precisely within our powers.

I will not go into the details, the background, of what has happened in committee because I have read the evidence, but I would like just to say this, that it is not the intention of the Government to force anything on any person or any group that is unwilling to accept.

Senator REID: Or on any province?

Hon. Mr. HAMILTON: Or on any province.

We want this provision from an administrative point of view and therefore I still think that this amendment is well framed.

Senator VIEN: Could you explain a little more what is meant by: "Wanted from an administrative point of view"?



Hon. Mr. HAMILTON: The Department administers the lands in the North-west Territories and the Yukon, and in the administration of those lands there are questions of land resources and mineral resources, and there are companies operating in the north and particularly in the Belcher Islands and on one of the islands in Ungava Bay which have staked claims to mining properties either partially under the water or completely so. Under the existing legislation it is not possible for us to register them. The claims are kept on file in our Department but are not actually recorded. As I understand it from the departmental officials, this act was designed to provide the legal framework under which these claims can be accepted and recorded under the laws of Canada. This amendment was framed to give us the legal right to deal with these offshore lands, including the lands under the waters off the shoreline of the islands within the Arctic Archipelago and under James Bay, Hudson Bay, and Ungava Bay.

Senator VIEN: Then, why do you not limit it to the Yukon and Northwest Territories?

Hon. Mr. HAMILTON: Because the acts are very clear as to how the property of the provinces is limited only to the shoreline.

Senator VIEN: The coastal state that has power over territorial waters and the continental shelf, would seem to be Her Majesty in Right of Canada as regards territories still within federal jurisdiction which should continue to be administered by the federal Government; but natural resources are provincial under the provisions of the B.N.A. Act, and territorial waters and the continental shelf adjacent to the coast of a province should be administered with respect to natural resources by Her Majesty in Right of the Province, the federal Government retaining jurisdiction over the control of navigation, the regulation of fishing appliances, national defence and compliance with international treaties. Natural resources being vested in the province, the province should be considered the coastal state in that regard.

Hon. Mr. REID: Hear, hear.

Senator VIEN: We should follow the rule set out by the Privy Council with respect to inland waters.

Hon. Mr. HAMILTON: I wonder if I might interrupt the honourable senator for a moment? It is not in my province to discuss the legal question that you have just raised. As Minister of this Department I have made it very clear that we are only interested in the simple administrative problems in these areas. I think it will be of interest to the committee to say that the Government is willing to clear away any question of doubt by limiting the application of this amendment to the clearly-defined boundaries as set out by the Quebec Boundaries Extension Act of 1912 and the Ontario Boundaries Extension Act of 1912, and the 1918 Privy Council order laying down the boundaries of these northern territories? In plain language, we are prepared to limit the application of this bill to the areas of the Northwest Territories—

Senator VIEN: And the Yukon.

Hon. Mr. HAMILTON: —and the Yukon including the areas under Hudson Bay, James Bay and up to the Ungava part, which is clearly defined here in the Acts I have mentioned.

Senator REID: No.

Senator VIEN: No. The jurisdiction of the province extends to fishing resources within territorial waters. The federal Government determines the nature of the equipment that can be used, but the fish belong to the provinces. The offshore mines under territorial waters would also be left to the province



except in the Yukon and Northwest Territories. If this bill applied only to the Yukon and Northwest Territories there would be no further objection to it.

Senator REID: Hear, hear.

Hon. Mr. HAMILTON: Let me point out, honourable senators, that in a letter dated December 30, 1957, signed by the Honourable Mr. Spooner, Minister of Mines, the Government of the Province of Ontario takes an altogether different point of view. I will read the relevant paragraph, and will table the letter if that is the wish of the Committee:

"It is observed from the report of the proceedings before the Senate Committee on Natural Resources, that the main concern is the land under the waters of Hudson Bay. This Government would have no objection to the amendment if it were restricted to the lands under James and Hudson Bay."

Senator VIEN: But Ungava is also within the Province of Quebec.

Hon. Mr. HAMILTON: Not the land under the waters of Ungava. I think it might be helpful to read to the committee the acts of the Federal Government which deal with this question of provincial boundaries.

Senator MACDONALD: May I ask one question in the meantime? You stated that you required this bill for the purposes of administration?

Hon. Mr. HAMILTON: Yes.

Senator MACDONALD: And I presume that is in connection with the Northwest Territories and the Yukon territory?

Hon. Mr. HAMILTON: Yes, and I mentioned specifically islands in the Hudson Bay and in Ungava.

Senator MACDONALD: And are they within the Northwest Territories and the Yukon territory?

Hon. Mr. HAMILTON: They are within the boundaries of the Districts of Mackenzie, Keewatin and Franklin, according to the Privy Council order of March 16, 1918.

Senator MACDONALD: Is that part of the Northwest Territories?

Hon. Mr. HAMILTON: No, the Northwest Territories now are limited under the statute just to the boundaries as laid down in the Northwest Territories Act, but do not include the land underneath the waters off those territories.

Senator MACDONALD: Well, why could not the second part of the bill be amended to read as follows:

"Territorial lands" means

- (i) lands in the Northwest Territories or in the Yukon Territory, and
- (ii) any other lands forming part of the Northwest Territories or of the Yukon Territory but not included within any of the provinces,

Senator REID: What objection could there be to that?

Hon. Mr. HAMILTON: In one sense, in the general sense, if you define the lands the the Northwest Territories and the Yukon as the lands not included in the Province of Quebec, and not included in the Province of Ontario, that would be according to the acts which govern the boundaries of those two provinces.

Senator MACDONALD: I do not think we would want to find them in this act.

Hon. Mr. HAMILTON: My colleague, the Minister of Justice, is also here, and, if possible, we have proposed to get rid of this doubt which exists. I understand there is a question concerning these waters underneath the sea off the provinces, off the Gulf of St. Lawrence, and off the east coast of Canada.

Senator MACDONALD: And off the west coast?



Hon. Mr. HAMILTON: Yes, off the west coast.

Senator MACDONALD: Together with Hudson Bay and James Bay?

Hon. Mr. HAMILTON: Yes; but I am pointing out that the Province of Ontario has no objection to James Bay and Hudson Bay.

Senator MACDONALD: Quebec might have some.

Hon. Mr. HAMILTON: This is the operative section of the bill—let me read the proposed amendment which should clear up any doubts as to our intention. Section (g) as now further amended would read as follows:

(g) 'territorial lands' means

(i) Lands in the Northwest Territories or in the Yukon Territory, and

(ii) lands underlying any of the waters included within the boundaries of the Provisional Districts of Mackenzie, Keewatin and Franklin, as described in the annex to the Order of the Governor in Council made on the 16th day of March, 1918,

that are vested in the Crown or of which the Government of Canada has power to dispose;

Senator VIEN: Have you copies of the proposed amendment?

Hon. Mr. HAMILTON: Yes, I have them, and I will have my deputy distribute them.

Mr. ROBERTSON: Some additional copies are being prepared if there are not enough to go around.

Senator VIEN: Mr. Minister, if you get down to brass tacks you will find that no legislation has ever determined who is the owner of natural resources under territorial waters or the continental shelf. That question should not be determined by a law, but it should first be referred to a federal-provincial conference. You are by this bill attempting to take the natural resources under the waters adjacent to the boundaries of sea-bound provinces. In our opinion these natural resources should belong to the province. As the point has never been clearly determined, the provinces involved should be consulted.

Senator PEARSON: Senator Vien, I would point out that the continental shelf is not a regular straight line a certain distance from the shore; it may be 100 miles, 50 miles or perhaps two miles away from the shore. How could you define that? When you get 200 miles distance you may get into an international conflict.

Senator VIEN: No. The question does not arise. Whatever the continental shelf and territorial waters be, such water should be under federal jurisdiction for treaty purposes and for the regulation of navigation and national defence, but not otherwise.

Senator CRERAR: Mr. Chairman, I am bound to say that I am getting a bit confused by the discussion. If I understand the Minister right, and I think I do, this legislation does not propose to claim offshore rights, with respect to the shores of any of the provinces that may be on the ocean or other waters.

Hon. Mr. FULTON: Honourable senators, may I say something—?

Hon. Mr. CRERAR: Pardon me a moment. If I understood the Minister right, he said he would amend the legislation so that it would apply only to offshore territorial lands.

Now, quite obviously, Ontario lands on Hudson Bay for example, or those within the boundaries of Manitoba or Quebec are not "territorial lands"—they are provincial lands.

Senator MACDONALD: I am not so sure of that. I would like to be sure of that before I approve of this bill.

Senator CRERAR: That is what I understood was the intention of the minister.



Now, that would be, to me, a sensible solution of this matter. We do not want to get into interminable discussions with the provinces of Ontario, Manitoba or Quebec about lands in Hudson Bay as to whether, if oil is discovered a mile or so off the shoreline, the federal Government has the right to that oil. The federal Government clearly has the right to what is territorial land but let us get a clear definition in this legislation of what are territorial lands. That certainly would not apply to Nova Scotia, would not apply to Quebec in the Gulf of St. Lawrence or British Columbia on the Pacific Coast. There may be some question as to how far Canadian jurisdiction extends—does it extend three miles, or are we going to take the more modern concept that our jurisdiction runs out 12 miles or 15 miles. But whatever the decision on that may be my contention is that it would be very unwise to disturb the right of the provinces to any discoveries under water three miles out from the shoreline, or 12 miles out, but we have the right of course to that control within what are strictly territorial lands. My suggestion, Mr. Chairman, would be that we agree upon that, and if I understood the minister rightly, he is quite agreeable to accept an amendment of that nature and it then becomes a problem of clarification of this legislation and that should not be beyond the resources of the law officers of the department.

Senator HAIG: Mr. Chairman, before the minister speaks again I would like to hear the Minister of Justice give an interpretation of the legal situation. I think the committee as a whole feels that we want to give whatever power is required to the Department of Northern Affairs and National Resources that does not interfere with the rights of any provinces. We do not intend to interfere with the rights of any province, at least I think that is the general feeling of the committee.

Hon. Mr. HAMILTON: We have no power or desire to do so.

Senator HAIG: But we do not intend to give the power in this bill, or at least I do not think that we do. What I think we should do is to follow the suggestion of Senator Crerar, namely to confine this to the Yukon and the Northwest Territories, and there is apparently no dispute about that, so the only question left is that of Hudson Bay and Ungava Bay.

Now, Mr. Chairman, I would suggest that we hear from the Minister of Justice how far these rights conflict with these other claims and then we will know what the issue is.

Senator Vien, from Montreal, talks about another matter and he is right if that were the issue, but that is not the issue, and the minister has said that that question can stand aside, that he does not want it. That eliminates that matter.

Hon. Mr. HAMILTON: I wonder if before the Minister of Justice speaks I might say a few final words. I have to apologize to this committee for having to hasten away but I have a very important bill coming before the other house and I am scheduled to speak first and so I will have to leave.

I think I have made the position of the Government clear by proposing a new amendment which makes even more clear the limited nature of the amendment which is really to meet an administrative problem of the department.

I have a map here which I would like to show to the committee, and probably Senator Crerar will understand this best. This map is a partial picture of the Hudson Bay and the Ungava area. This map shows in very bright colours the boundaries of Manitoba, Ontario and Quebec according to the Manitoba Boundaries Act, the Ontario Boundaries Act and the Quebec Boundaries Act of 1912. You will notice that the Northwest Territories under this act is described as the shore of the Hudson Bay and James Bay, and runs around the shore. You will notice that the boundaries of the provinces just go as far as the shoreline, and that is the boundary described in the act.

So what we are asking in this amendment is not applicable to land under the sea on the East coast or West coast. But we are asking for the land under the sea to the north of the provinces of Quebec, Ontario and Manitoba as shown by these boundaries here on the map, generally referred to as being the North-west Territories.

Senator REID: Mr. Chairman, might I ask the minister this question? Has he considered the impact it might have say on the province of Quebec, because by the explanation given now the boundary line comes right to the shores and that would take away from the province of Quebec the right to minerals underneath the water, if that was defined as being under federal territorial jurisdiction. In other words, I take it from your explanation that it takes away the powers of the provinces concerned to any rights beyond the shoreline.

Hon. Mr. FULTON: Could I clarify that point for the honourable senator, Mr. Chairman?

Senator MACDONALD: Mr. Chairman, just before the Minister of Northern Affairs and National Resources goes I would like to say that I am sure we all appreciate your attendance here this morning. We know that you have two bills coming before the House of Commons this morning, and we do appreciate that you have taken the time to come here and discuss this bill, which is a very important bill. One reason for which the Senate was set up was to protect the interests of the provinces, and for these reasons this bill, for the Senate, is one of the most important that has come before it. We wish to express our appreciation for your attendance and we hope that if we do not get through here this morning that you will be able to come back when you will have more time at your disposal, but we do appreciate your attendance here today.

Hon. Mr. HAMILTON: The committee is very kind.

Senator CRERAR: Mr. Fulton, before you start would you inform us how far today, in law, does Canadian jurisdiction extend into tidal waters?

Hon. Mr. FULTON: Mr. Chairman, I would rather not express an opinion on that question because there is a conflict of opinion as to whether jurisdiction extends 3 miles or 12 miles or from headland to headland and all sorts of other opinions, and I might even say that international negotiations are pending right now and I would sooner not express an opinion on that point.

I appreciate very much the opportunity of appearing before this committee today to try to clarify the intention of the Government with respect to the drafting of this bill and the purpose of the bill.

My interest in it arose first in connection with the draftmanship of it, for which the Department of Justice is responsible, and our instructions were that the bill should not seek to add to the Crown in right of Canada any authority over lands which do not now belong to Canada. It is not intended by the bill and has not been intended by the bill from the outset, in accordance with the instructions which we have received, to assert directly or indirectly, or to acquire directly or indirectly any rights over lands under territorial waters which do not now belong to the Government of Canada. We felt that in drafting the bill as it was originally presented to you that had been made clear,—that the effect of the bill is not to add to Canada any rights and particularly rights as against any province that the central Government does not now have. However, it became apparent that there were doubts and reservations in your committee so we had another look at the bill, and in discussion with my colleague the Minister of Northern Affairs and National Resources we came to the conclusion that we could amend the bill—without interfering with its purpose, and with the hope that any residual doubts would be removed—in such a way as to make it perfectly clear that all that is asked here is the right to make regulations with respect to lands under territorial waters which are now in the jurisdiction of the federal government of



Canada. The amendment would make it clear we do not say we have the right to make regulations with regard to lands under territorial waters which may be in the control of a province; only that we have that right to make those regulations with regard to lands under territorial waters which are now under the jurisdiction of the dominion Government.

That has been the purpose of the bill throughout. The amendment which is now proposed has been drawn in the desire to make it clear that the operation of this act will not extend to the Pacific Coast, in which the province of British Columbia is interested; will not extend to the Gulf of St. Lawrence, in which the province of Quebec is interested; will not extend to a large portion of the coast of Labrador, in which that province is also interested; and will not extend to the Great Lakes, in which the province of Ontario is interested.

In other words, it will be confined to the areas where I understand the lands under territorial waters can be agreed now to be lands within the jurisdiction of the Government at Ottawa.

Senator MACDONALD: May I interrupt the Minister to ask a question? The latter part of the amendment refers to lands as described in the annex to the order of the Governor in Council.

Hon. Mr. FULTON: I was just going to come to that, Senator Macdonald.

Senator MACDONALD: That is not a statute, is it? It is an order in council.

Hon. Mr. FULTON: Yes, it is an order in council made on March 16, 1918, which I should probably read to you now.

Senator MACDONALD: Would that order in council be passed without prior consultation with the provinces?

Hon. Mr. FULTON: I am afraid, Senator Macdonald, that I could not tell you whether in 1918 there was consultation before this order in council was passed. As I understand it this order was passed in pursuance of statutes in regard to the addition of territories to Manitoba, Ontario and Quebec.

Senator VIEN: The order in council has been printed?

Hon. Mr. FULTON: Yes.

Senator VIEN: Mr. Chairman, could we have a copy of the order in council for the members of the committee?

The CHAIRMAN: Yes.

Senator VIEN: You could read the schedule of the act into the record.

Hon. Mr. FULTON: I would be glad to do that but I wonder if I might go back for a moment to the effect of the statutes providing for the extension of the boundaries of Ontario, Quebec and Manitoba in 1912. Up to that time, I think I am correct in saying—and I would like the Deputy Minister of Northern Affairs to correct me if I am wrong—the boundaries of those provinces did not extend to the Arctic waters or Hudson Bay except for one very small portion in James Bay. The lands in those areas north of the then provincial boundaries had always been territorial lands and under the jurisdiction of the Government of Canada.

Senator REID: Does that line start from the high water mark of the province?

Hon. Mr. FULTON: At that time, sir, the boundaries of the provinces did not extend to the Arctic Ocean or to Hudson Bay, so the question of high or low water mark did not exist.

Senator REID: What about the high water mark of Hudson Bay?

Hon. Mr. FULTON: They did not go to Hudson Bay. Only a very small portion of James Bay was covered. I am informed that the limits of the provinces of Ontario and Quebec at that time were such that the northern

boundaries followed a line cutting through Fort Albany and continuing across the southern tip of James Bay to approximately Old Factory. Then the boundary of Quebec continued on the projection of that line to the east.

Senator REID: Is that the new boundary you have marked now?

Hon. Mr. FULTON: No, that is the old boundary.

Senator MACDONALD: And what time was that?

Hon. Mr. FULTON: Up to 1912. At that time, by agreement, certain areas of those northern lands which had previously been territorial lands and under the jurisdiction of the Government of Canada were added to the provinces of Manitoba, Ontario and Quebec respectively. I would like to read to you the relevant portions of the statutes by which those additions were made. Ontario is exclusively concerned with Hudson Bay waters, Quebec with both Hudson Bay waters and Ungava Bay waters, and Manitoba exclusively with Hudson Bay waters, so far as this boundary description is concerned.

The first of these acts in the statutes of 1912, which I should like to refer is cited as the Ontario Boundaries Extension Act. In the description of the boundary there is defined a line to be followed until it meets Hudson Bay. Then it continues: "thence easterly and southerly following the shore of the said bay to the point where the northerly boundary of the province of Ontario as established under the said Act intersects the shore of James Bay."

I am informed that this act made it clear that the boundary ended at the shore of Hudson Bay and James Bay respectively, and I understand that it has always been accepted and agreed that the word "shore" meant the low water mark. That is in the statute which added this territory to Ontario and in effect extended Ontario to the shores of Hudson Bay, which it previously had not reached. It would seem from this that the lands over which Ontario has jurisdiction extend only to the low water mark of Hudson Bay. We have a letter from the Ontario Minister of Mines, Mr. Spooner, that so far as Ontario is concerned, if the proposed amendment to the bill is accepted, Ontario will then have no objection. They assert no claim to any lands beyond the low water mark of Hudson Bay and James Bay.

Senator MACDONALD: I understand that Mr. Spooner is here today and probably he could speak for himself in that respect.

Hon. Mr. FULTON: If you wish at this point I would be glad to have Mr. Spooner correct me if I am wrong or corroborate me if I am right.

Senator MACDONALD: I thought it was agreed at the last meeting that this committee would take no definite action without referring the bill again to the provinces.

Hon. Mr. FULTON: Well, I cannot speak for that, of course, Senator, because I was not here. I am only speaking from the data and information I have been given, and with regard to the legal position as I understand it as the result of the statutes by which the territories of the provinces were extended to the waters of Hudson Bay and the Arctic.

Senator MACDONALD: I do not question the letter of the Honourable Mr. Spooner. I did not follow it too carefully when it was read. Since he is here I think it would be better to hear from him.

Hon. Mr. FULTON: I should of course not purport to speak for him if he is here. I was not aware he was here, and I merely saw the copy of the letter, from which so far as I could gather he indicated agreement with the proposition I have stated; but if he is here, I should not speak for him.

Then with regard to the situation in Quebec, the act in question is an act to extend the boundaries of the Province of Quebec—cited as the Quebec Boundaries Extension Act of 1912—and the relevant portions of the statute, in so far as the lands bordering the waters are concerned, are as follows:

"thence northerly and easterly along the shores of Hudson Bay and Hudson Strait;"



Which would incorporate this area here—

“thence southerly, easterly and northerly along the shore of Ungava Bay and the shore of the said strait; thence easterly along the shore of the said strait to the boundary of the territory over which the island of Newfoundland has lawful jurisdiction.”

In other words, until it meets the coast of Labrador. And you will notice the word “shore” is used throughout.

Senator WALL: In other words, so far in our argument both the Province of Ontario and the Province of Quebec have accepted as a limit to their jurisdiction, the shoreline?

Hon. Mr. FULTON: That is my information, sir, yes.

Senator WALL: According to the acts of 1912?

Hon. Mr. FULTON: Yes.

Senator WALL: And therefore the problem now we would pose to ourselves is what indeed is the definition of “shoreline.” Are there any rulings by the Department of Justice, or otherwise, to give us a clarification of what ostensibly now is a fixed situation by those two boundaries?

Hon. Mr. FULTON: Yes; and the same in the Province of Manitoba, with respect to this portion of the westerly shore of Hudson Bay.

Senator CRERAR: May I ask a question? Supposing oil were discovered two miles from the shoreline here in Ontario under Hudson Bay. To whom would that oil belong? Where would jurisdiction lie, with Ottawa or Ontario?

Hon. Mr. FULTON: My information and my interpretation of the law is that it would belong to Canada. The boundary of Ontario, in accordance with the interpretation of the statute given just now, stops at the shoreline at low water mark.

Senator CRERAR: Isn't that the crux? If oil is discovered say two miles from the shoreline, whether or not Ontario or Canada would have jurisdiction is really the question. There is no question at all if oil were discovered two miles up here. That is clearly established.

Hon. Mr. FULTON: Off the shore of the territory, no. I understand, although I could be wrong in this—Mr. Speaker can speak authoritatively on the point—that there would be no conflicting claim by Ontario if oil were discovered two miles off the border of Ontario out in Hudson Bay.

May I make this point, that by the inclusion in the bill of the words “that are vested in the Crown or of which the Government of Canada has power to dispose”, it is made clear that the Government of Canada is not seeking to assert by this act that they have any new right, but is merely asserting their right to make regulations with regard to lands belonging to them now. If a contrary claim to the land or minerals should be entered at any time by any province, then as I understand it the situation is that the province would have the right to go to court and say that the Government of Canada does not have power to dispose of these lands or minerals because they are under the sea adjacent to the province and therefore belong to the province. But by this bill we say that so far as the lands belong to Canada we have the right to make regulations, and if a province asserted a contrary title, they could go to court and say, “We want an interpretation of the act of 1912, and we claim the boundary of the province does not stop at the shoreline.”

Senator CRERAR: Would it not be a good thing to clear that by way of illustration?

Hon. Mr. FULTON: I do not think we could. The only way we could clear that up in this legislation would be if we did assert ownership in the words of the bill itself, and that is the very thing that I understood hon. senators are anxious we should not do.

Senator CRERAR: In this particular case the oil is two miles away and belongs to Ontario.

Hon. Mr. FULTON: I understand Ontario does not assert that proposition, insofar as this area is concerned. It is also my understanding, though I may be wrong, but it was certainly my understanding that the concern of the Province of Quebec extended mainly to the Gulf of St. Lawrence where this boundary proposition—

Senator VIEN: The shore of Ungava as well.

Hon. Mr. FULTON: Then I may have been misinformed, Senator, but I understood that in view of the clear wording of the act of 1912 the Province of Quebec did not assert the proposition that its rights extended beyond the shoreline in this area. Are you suggesting, Senator, that a province would have jurisdiction over natural resources which lie beyond its boundary?

Senator VIEN: Well, you say the provinces are bound by the shoreline. We all agree. But a question has arisen in the Gulf of Mexico and offshore, in California; the United States have asserted that they have the right to the natural resources which are under territorial waters and the continental shelf. This has become a very live question which is being discussed internationally. As applied to Canada, what we suggest to the Government is this: leave the natural resources that are to be found in or under the continental shelf and territorial waters to the provinces, because the provinces are, in that respect, the coastal states. When the territorial limits of the provinces of Manitoba, Ontario and Quebec were extended, all the powers of the federal Government were transferred to those provinces. It is true that the territories so transferred were bound by the shoreline; they were so bound even before the transfer. But now, natural resources being provincial by right, such rights should now extend to natural resources to be found in territorial waters or the continental shelf, adjacent to the provincial coastlines.

Senator REID: May I ask a question?

Senator VIEN: Yes, please do.

Senator REID: Has the question of the shoreline been defined? We had an interpretation this morning that "shoreline" in so far as the Northwest Territories referred to in the bill before us, went to the low watermark. That does not apply to British Columbia?

Senator HAIG: No, that does not apply to British Columbia.

Senator REID: So, when we speak about "shoreline" I do not think it has been identified for all purposes.

Hon. Mr. FULTON: There is one point which I think might be relevant: I am informed that the stand has always been that these are inland waters, namely, the waters of Hudson Bay, Hudson Strait and those waters—

Senator VIEN: Hudson Bay is the high sea. As you know, Great Britain will never admit that Hudson Bay is an inland water.

Hon. Mr. FULTON: Canada has always taken the position that it is a territorial water.

Senator VIEN: But that has not been settled.

Hon. Mr. FULTON: In many of the text books I understand it is frequently referred to as an example of a case in which salt water is nevertheless inland water.

Senator VIEN: But is the question settled between Britain and Canada as regards the character of Hudson Bay? I think you will find that Great Britain will never admit that Hudson Bay is an inland water.



Hon. Mr. FULTON: Senator, I hesitate, and indeed I want to avoid, getting into a legal controversy. May I put it this way: it is new information to me that there is a dispute between Britain and Canada on that point. I understand there never has been a dispute, and I am informed there is no dispute outstanding at the present time on that point, that they are inland waters. I think the position is we do claim it and always have—that is my information.

Senator REID: We claim that against the United States, because every American fisherman who comes to Canada has to take out a licence before he can fish in Hudson Bay.

Hon. Mr. FULTON: I understand we claim it against everybody. I am informed that there is no claim made by Great Britain adverse to our position that Hudson Bay is inland water.

Senator VIEN: Is that so?

Hon. Mr. FULTON: That is my information. I must say that I speak subject to correction, because I came here with this as an assumption and had not done a great deal of research; but I believe I am correct in making that statement.

Senator VIEN: Are there not several questions pending at present: for instance with respect to a straight line from the most easterly point of Nova Scotia to the most easterly point of Newfoundland, and in the same way a straight line to close Hudson Bay, so as to make it a body of inland water?

Hon. Mr. FULTON: Senator, I do not want to get into too many refinements. The waters of Hudson Bay and Hudson Strait, to the extent to which they are surrounded by land, are entirely surrounded by Canadian territory. Therefore, probably that is the foundation for the determination that these are inland waters.

With respect to the line you referred to, there has never been the same assertion in that connection as there has been with Hudson Bay, and has been for upwards of 200 years.

Senator MACDONALD: If honourable senators are through with that subject, I should like to ask the Minister a question as a matter of information. Could you tell us, Mr. Minister, if the western boundary of the mainland of the province of British Columbia is described as going just to the shoreline?

Hon. Mr. FULTON: That is the western line?

Senator MACDONALD: Yes. And with respect to the eastern boundary of Nova Scotia, does the description of that province go just to the shoreline?

Hon. Mr. FULTON: Senator, I cannot answer that, because I would be speaking without research; but it is my understanding that the problem has never arisen, because no territory was transferred to British Columbia on her western shores, by which the boundaries of that province were established. The boundaries go to the sea, and it was never necessary to define them. Where you had an accretion of territory to the three provinces of Manitoba, Ontario and Quebec, it was necessary to define the boundary, but it was not ever necessary in the case of the western shore of British Columbia or the eastern shore of Nova Scotia.

Senator MACDONALD: When the province of British Columbia was established was it not necessary to describe it by metes and bounds?

Hon. Mr. FULTON: I don't know, but I doubt it.

Senator MACDONALD: Well, certainly there is a description of the boundary between Alberta and British Columbia?

Hon. Mr. FULTON: Yes, because that is a boundary between two provinces. But there is nothing west of British Columbia except the Pacific ocean, and therefore there was no necessity to define boundaries—except the Panhandle boundary with Alaska.

Senator MACDONALD: Would the western boundary of British Columbia be described merely as the Pacific ocean?

Hon. Mr. FULTON: Senator, I don't know, because I have not looked it up.

Senator MACDONALD: The point is, if it is described as being to the shore of the Pacific ocean . . . ?

Senator PEARSON: Why should it be?

Senator MACDONALD: You would have to have some description.

Hon. Mr. FULTON: We can look that up.

Senator REID: Is it not a fact that British Columbia, being a colony, assumed all the rights of Great Britain, and when that province entered Confederation it took those rights and still claims all the rights that Great Britain had?

Senator PEARSON: Under the international control of water, yes.

Hon. Mr. FULTON: It is to avoid any controversy as between the province of British Columbia and the dominion of Canada over this bit that the amendment to confine its effect to these waters is now proposed; we do not regard it as necessary, but we are prepared to agree to it to make it clear beyond any doubt that this bill is confined to land under the waters of the Arctic, Hudson Bay and Ungava Bay. As I say, as far as possible I wish to avoid entering into controversy with any senator, but I would like to deal with Senator Vien's proposition that although there are physical limitations in the territory as defined, never the less the results of the acts of 1912 still leave the possibility that the lands under the sea adjacent to the provinces fall under provincial control.

I should like to refer to the opening words of section 2 of this statute from which I have read in part with reference to Quebec. It contains these words:

"The limits of the province of Quebec are hereby increased so that the boundaries thereof shall include, in addition to the present territory of the said province, the territory bounded and described as follows . . ." Then follows the description, and with respect to the portion in question the description is confined to the shore. It seems to be, and I understand it has always been, accepted that with respect to these particular areas the limitation of Quebec, of Ontario, and of Manitoba, extend to the low watermark on the shoreline.

Senator REID: May I ask, were they consulted, and did they agree?

Hon. Mr. FULTON: These statutes of 1912 were enacted as a result of agreements with the provinces for the addition of these territories, which formed the basis of the limits of the provinces.

Senator WALL: May I come back now to the contents of this new amendment? It appears to me that the acts of 1912 clearly delimited the boundaries, and in effect said that everything past the shoreline was territorial water. In the meantime we have created some districts in the territorial waters that are under the jurisdiction of Canada. If everything past the shoreline is in effect territorial waters now what is the purpose of this amendment whose delimitation to the districts of Keewatin, Mackenzie and Franklin we understand and appreciate. In other words I am concerned that this amendment does nothing at all, that it just merely confirms the state of things as they existed since 1912.



Hon. Mr. FULTON: If I understand your question correctly, Senator Wall, that would be the case. Again I understand that has always been so and certainly it is the position the federal Government must take, that as a result of the definitions contained in the acts of 1912, the boundaries and the jurisdiction—the territorial jurisdiction—of the provinces ended at the shoreline of the territories added, and that anything outside was in territorial waters—although in this case inland waters, the inland waters of Canada.

Senator WALL: Would you clarify for me what exactly this new amendment does do?

Hon. Mr. FULTON: It makes it clear that the effect of the bill is confined only to the waters of the Arctic and Hudson Bay and Ungava Bay, and does not extend say to the west coast of Canada.

Senator WALL: But suppose I were a kind of a mean advocate and I contend that it in effect does nothing.

Senator HAIG: It does one thing—it will mean that British Columbia and Nova Scotia will have no fear if the amendment passes, because the legislation could not possibly apply to them.

Senator WALL: But it merely confirms the condition that exists now.

Senator HAIG: This act limits itself clearly to territorial waters and that is all.

Hon. Mr. FULTON: Mr. Chairman, I think that Mr. Robertson, the Deputy Minister of the Department interested, could clarify that point.

Mr. R. G. ROBERTSON (*Deputy Minister, Department of Northern Affairs and National Resources*): Mr. Chairman, that is a confusing point, and I might clarify it for the committee. The definition of the Northwest Territories has been changed on a number of occasions as parts were cut out from it to form additions to the provinces. For instance, land has been cut out to add to the provinces of Saskatchewan and Alberta, to Ontario and to Quebec and so forth.

These changes, when one reaches the area of Hudson Bay and Ungava Bay and Hudson Strait and so on, have not taken out of the federal jurisdiction lands underlying those waters—that land has been federal ever since all this area was transferred to Canada in 1868 and 1870.

Senator HAWKINS: Where did that right come from?

Mr. ROBERTSON: From Great Britain. Ruperts Land and the Northwest Territories were transferred to Canada in 1868 and 1870 by Britain and the rights of the Hudson Bay Company were extinguished under certain terms.

In 1918 when the districts of Keewatin and Franklin and Mackenzie were defined they were described to cover the Northwest Territories as they were then defined, and they went down around the shore of Hudson Bay and James Bay and so on.

Senator WALL: Confirming 1912?

Mr. ROBERTSON: Exactly.

Then in 1950 the Northwest Territories Act was revised, to establish a purely administrative area to be covered by the Council of the Northwest Territories, and when it was revised it was revised so that the jurisdiction of the council extended over the land areas, which is a reasonable and a sensible definition, because the resources are in the federal administration anyway, they do not come under the jurisdiction of the Council.

Senator VIEN: We are all agreed on that.

Mr. ROBERTSON: Yes.

So that the definition of the boundaries of the Northwest Territories made in 1950 was limited to the land area above water. A consequential result of that, which I do not think anyone appreciated at the time, was that, by defining

the Northwest Territories in that way, the result was to take the submerged land out of the regime of the Territorial Lands Bill. This did not mean that it ceased to be federal land, but that in this one bill it just ceased to be territorial land, and so the purpose of this legislation before us this morning is to define this land which I think is, beyond legal doubt, federal land, as territorial land for the purpose of the Territorial Lands Act. In other words, it simply seeks to repair an incidental result of the 1950 amendment.

Senator CRERAR: The effect of this will be to leave off-shore rights to lands adjacent to provincial boundaries to be determined if necessary in future by agreement with the provinces?

Senator VIEN: Except that you will take over Ungava Bay?

Hon. Mr. FULTON: We assert no ownership rights in this bill.

Senator VIEN: I appreciate that, but you will need the powers conferred in this bill to have the right to grant mining licences off-shore on the Ungava Bay. If you say, as you stated a minute ago, that it would not apply to the west shore of Hudson Bay so that the province of Ontario—

Hon. Mr. FULTON: I said the west shore of Canada, that is the shore of British Columbia. We are making it quite clear that this legislation will apply only to the waters of the Arctic, Hudson Bay and Ungava Bay and does not extend to the eastern shores or the western shores of Canada.

Senator VIEN: If in Ontario, for instance, which is now bounded by the shore of Hudson Bay, minerals are found two miles off shore under Hudson Bay—as I understood you a minute ago, you stated that there would be no objection taken by the federal Government to the province of Ontario granting rights.

Hon. Mr. FULTON: No, Senator Vien, I am sorry. I said what is perhaps the exact opposite. At the present time, in my view, the law is—and it is not being changed by this bill—that if minerals were discovered two miles off shore in Hudson Bay or two miles from the low water mark they would belong to Canada and fall to be disposed of under federal jurisdiction. That is the situation today, and all we are seeking by this bill is to rectify the omission referred to a moment ago by Mr. Robertson and make it clear that we have the right to regulate. But so far as Ontario is concerned it has been pointed out that they agree—Mr. Spooner, Minister of Mines for Ontario, is here and if I am asserting a proposition to which Ontario does not agree perhaps we should have that fact established now, but it is my understanding that Ontario does agree.

Senator CRERAR: Is there not a question here beyond Ontario agreeing with this? This affects all the other provinces.

Hon. Mr. FULTON: I think in the light of the amendment it would affect clearly only Ontario, Quebec and Manitoba.

Senator CRERAR: Assuming that it does. Assuming it is limited to that.

Hon. Mr. FULTON: Again I say this bill does not assert any ownership, it is not a disguised attempt to assert ownership.

Senator CRERAR: Take the point that I raised a moment ago, that if today oil were found in Hudson Bay off the shores of Ontario, Quebec or Manitoba, and these provinces or any one of them put up a claim to that oil because it was found off their boundaries that question then would have to be referred to the courts and settled in the courts? That question would then have to be referred to the courts and settled in the courts, the meaning of this annex to the order of the Governor in Council in 1918?

Hon. Mr. FULTON: Correct, sir, and as to the effect of the statutes of 1912, if the provinces assert a proposition contrary to that which I have asserted



today the courts will have to determine it. This bill will in no way lessen the rights of the provinces to assert such a proposition.

Senator CRERAR: I agree with you but would it not be desirable to clear that point up now? Frankly, my own view is that the offshore rights in this particular instance should rest with the provinces of Manitoba, Ontario and Quebec. It should be left with those provinces. That is, we should not do anything that might open the door to us having a contrary claim. I am not a lawyer but I thought paragraph (g) (ii) could be amended in this way:

"lands underlying any of the waters included within the boundaries of the provisional districts of Mackenzie, Keewatin and Franklin, but exclusive of the lands adjacent to the boundaries of any province."

Hon. Mr. FULTON: That is a matter of policy and whether that proposition would be agreeable must be left to my colleague the Minister of Northern Affairs to say. Speaking from the legal position it is my impression that such an amendment would be in effect to say that Canada does not own and is not entitled to the lands under the waters off the shores of those provinces. Speaking as Minister of Justice I would not agree that such a position is sound in law, certainly in so far as these waters of Hudson Bay and the Arctic are concerned.

Senator CRERAR: I think you are right in that statement but my concern at the moment is to avoid future differences of opinion between Manitoba, Saskatchewan and Alberta. I am not clear that this might not affect other provinces as well.

Hon. Mr. FULTON: I do not think it could possibly affect Saskatchewan or Alberta.

Senator CRERAR: I am thinking, for instance, of Nova Scotia. Suppose oil is discovered two miles off the low water mark of Nova Scotia? Who controls it, the federal Government or the provincial Government?

Hon. Mr. FULTON: It was in order to avoid any possibility of conflict in regard to such questions in this bill that we suggested the amendment.

Senator CRERAR: What you are doing is to say "We will not touch that question now but leave it to the courts to decide in the future".

Hon. Mr. FULTON: Yes, if it arises.

Senator MACDONALD: Yes, but your proposed amendment, Senator Crerar, does not settle that question. It would still have to be determined whether it is within the province or not.

Senator CRERAR: I agree with you but I think it would settle it so far as Manitoba and Saskatchewan are concerned. I do think it should be possible to clarify this matter now so that there would not be any question in the future of conflict between Ontario, Manitoba or Quebec as to who owns the offshore rights.

Hon. Mr. FULTON: It was my understanding that with respect to the areas now being discussed there was no conflict and that no assertion was made by Manitoba, Ontario or Quebec with regard to the lands under the waters off these shores, but I understood further that Quebec is not prepared to make, as it were, the same admission with regard to the waters in the Gulf of St. Lawrence. Therefore, if we amended the bill to confine it to these northern areas, Ontario, Quebec and Manitoba would all accept it. If my information is incorrect—

Senator VIEN: It is.

Senator CRERAR: Mr. Fulton, as a practical matter may I suggest that if a large oil field were discovered off the Quebec shore of Hudson Bay, say two miles out in tidal waters, you would certainly hear from Mr. Duplessis as to who had right to it.

Hon. Mr. FULTON: If you are right then I would imagine the proper solution at that time would be a reference to the Supreme Court of Canada as to the effect of the statute of 1912 and any other relevant statute. In the meantime somebody has to be authorized to make regulations with regard to exploration and development.

Senator CRERAR: I quite agree with you.

Hon. Mr. FULTON: That was the sole purpose of this bill. It was not to assert ownership or title which we do not now have.

Senator MACDONALD: Mr. Minister, with all due respect, although I do not agree with Senator Crerar's suggestion, I cannot see why you have any objection to it because in the original bill you use the words "any other lands forming part of Canada" and then these are the words you use "but not included within any of the provinces". If that language was good there why do you object to Senator Crerar's suggestion to having it included here?

Hon. Mr. FULTON: I am afraid I do not recall at the moment the details of Senator Crerar's suggested amendment.

Senator CAMERON: What would have happened had this potential oil bonanza been discovered on November 1, 1957, before any of this came up? What would have been the position?

Hon. Mr. FULTON: I am informed by the Deputy Minister that it could have been administered by order in council but not under the Territorial Lands Act.

Senator MACDONALD: And that is the way it is being administered, I understand. Speaking at the last meeting the Deputy told us that the granting of licences over the years has been done by order in council, and that at the present time there are, I think he said, some—

Senator VIEN: 297 applications.

Senator MACDONALD: —yes, 297 applications pending.

Mr. ROBERTSON: Actually there are at the present time over 1,400. The figure changes from day to day.

Senator VIEN: Could Mr. Robertson describe for us the territory to which they apply?

Mr. ROBERTSON: I could give an indication, Senator Vien. At the present time the claims that mining companies want to register and which we cannot register under the act because of this technical omission, total 1,424. Of this number, 125 are submerged claims off Smith Island.

Hon. Mr. FULTON: Excuse me, Mr. Chairman, and honourable senators, but I have just been given a note that my estimates are coming up immediately in the House of Commons. I had hoped I could spend the full morning with you but apparently they have finished Mr. Hamilton's bill rather more quickly than he anticipated. If you will excuse me I will leave now but I would be glad to come back and attend any other session of the committee if I can be of help to you. I shall await the word of your Chairman.

Senator VIEN: We are all very grateful to the Minister for having come to give us the position of the Department of Justice with regard to this matter, and I am sure we all highly appreciate his having been with us this morning.

Hon. SENATORS: Hear, hear.

Senator VIEN: Mr. Chairman, before this meeting is adjourned I wonder if Mr. Robertson could give us a description of the territory to which these applications apply?

Senator REID: May I suggest, Mr. Chairman, that at our next meeting we be provided with copies of the order in council of 1918. We should have that



material before us. I am not doubting the statements of the ministers or the deputy ministers, but I think we should have the documents before us to study.

Senator HAIG: And the statute of 1912.

Senator REID: The statute of 1912 as well.

The CHAIRMAN: May we hear from the Honourable Mr. Spooner?

Senator MACDONALD: I do not know if it is fair to the Honourable Mr. Spooner to ask him to speak at this time. It is true that he is here, but I do not know if he has his legal advisers with him. I believe the previous witnesses were here with legal advice right at hand and were prepared to give evidence. The Honourable Mr. Spooner may be prepared, but I do not think we should insist.

The CHAIRMAN: Mr. Spooner?

Hon. Mr. SPOONER: Mr. Chairman, and gentlemen: I came here today not actually to attend this meeting but to attend another meeting, and I thought I would come and spend an hour with you this morning. For what it is worth I would like to say this, that it appears to me that the difficulty with this bill goes back to the 1950 bill. Subsection (g) of section 2 describes territorial lands, and says:

"Territorial lands" means lands in the Northwest Territories or in the Yukon Territory that are vested in the Crown or of which the Government of Canada has power to dispose.

Now, that immediately poses a problem of what happens to the rest of the territorial lands that are outside Northwest Territories and Yukon Territory, and I think that the purpose of the amendment is to correct that shortage in the legislation. That being the case I have no alternative but to accept the boundaries of Ontario as having been confirmed by the acts of 1912 and the order in council of 1918, and I am not going to argue whether Ontario boundaries are to be extended, because that is irrelevant to the question this morning. I am satisfied that our legal advisers will be satisfied with the amendment that is proposed by the minister, and that is to add a subsection or another section to (g) describing territorial lands as also being lands underlying any of the waters included within the boundaries of the provisional districts of Mackenzie, Keewatin and Franklin, as described in the annex to the Order in Council of March 16, 1918. That being the case, if it is the intention of the committee to recommend the minister's amendment, at the moment I see no reason why we would not be entirely in agreement with it. If what you are attempting to do is to legislate for these lands that are in Hudson Bay and James Bay, then I think that that is satisfactory to us. As I said at the meeting here in December our objection to Bill L is that it was much too broad in scope. Now the scope of the bill has been limited to the requirements of the day, and therefore I think that we will be quite prepared to support and agree to this amendment.

Now, Mr. Chairman, I would hope that as in the past you would supply me with minutes of the proceedings so that we may study them, and we shall then communicate with you, sir, as chairman of this committee, and also with the Minister of Northern Affairs, and give you the benefit of our advice for whatever it is worth. I do not think I need to add any more.

Senator VIEN: How would your rights to the natural resources under the territorial waters of the continental shelf be affected?

Hon. Mr. SPOONER: Well, sir, I do not think we would be adversely affected because of the fact that since 1912 the boundaries of our province have a certain limitation.

Senator VIEN: Except that under the act, as we stand now natural resources belong to the provinces. Now a question has arisen in various places

in the world, and in Canadian areas as well, as to who are the owners of the natural resources offshore.

Hon. Mr. SPOONER: I would say, sir the provisional Districts of Mackenzie, Keewatin and Franklin, in the same way that we might have a mine, for instance, that covers the boundaries or is located within two provinces. That is possible.

Senator VIEN: Well, suppose you found mineral deposits, oil, or otherwise, offshore the Ontario boundary on Hudson Bay?

Hon. Mr. SPOONER: Well, that would not affect us because our boundaries are set since 1912.

Senator VIEN: Yes, but coastal waters belong to coastal states. As between federal and provincial Governments, in Canada, we have never determined who is the owner of natural resources to be found therein. In the spirit of our Confederation Act, in my humble opinion, they belong to the provinces which are the coastal states. There is nothing in any statute that gives the federal Government the ownership of the offshore resources. The federal Government is proposing a bill which will have the effect of asserting for the federal Government the ownership of these natural resources. Well, I say that this question has never been defined.

Hon. Mr. SPOONER: Well, sir, that is rather an involved matter, and I am not prepared to discuss matters of an international nature.

Senator VIEN: I do not believe this is the place to discuss that; I suggest that the place to discuss it is at a federal-provincial conference or the Supreme Court. I would rather suggest that it be referred to a federal-provincial conference.

Hon. Mr. SPOONER: Well, Mr. Chairman, I doubt that I can answer the honourable senator's statement. But I would look upon it in this way: Canada has ten provinces and the territories. Let us for the moment consider that the territories are under the same degree of government, shall we say, as in the provinces; and therefore, as I mentioned before, the boundaries of Ontario, in so far as they extend into James Bay and Hudson Bay, have been set out in legislation which has been on our statutes for many years. Whether I agree with that or not is irrelevant. It would appear to me that this amendment proposed today limits the definition of "territorial lands" and corrects an apparent deficiency in chapter 263, passed in 1950, dealing with territorial lands.

Senator VIEN: But no legislation has ever determined the point that is at issue, namely, the ownership of offshore natural resources.

Senator PEARSON: Do you not think, Senator Vien, that it is defined when you say the shoreline is the boundary? You have a definite boundary between Ontario and Quebec as far as the land is concerned, and the province of Ontario and the province of Quebec extend to the shoreline and no further. Therefore, the federal Government, which had control of all mineral resources under those lands before they were transferred to the provinces, continued to hold the mineral rights under the lands covered by water. The provinces go to the shoreline and no further; they have no further jurisdiction beyond the shoreline.

I would point out that this is not an international water; it does not come within the question that concerns British Columbia or Nova Scotia. That is a different situation altogether. These are under the provisional districts of the Mackenzie, Keewatin and Franklin. Those districts extend right up to the shoreline of Quebec, Manitoba and Ontario; they also control mineral rights under the waters.



Senator VIEN: Every coastal country—

Senator PEARSON: Now you are talking of a different subject altogether; it has nothing to do with this bill.

Senator VIEN: I am speaking to the point you have just raised. The shore-line boundary applies to every coastal state—

Senator PEARSON: You are still raising that question, which I say does not apply to this bill.

Senator VIEN: If the proposed legislation excluded Ungava Bay, there would be no further objection.

Senator HAIG: By you?

Senator VIEN: By me—there might be by others.

Senator HAIG: Mr. Chairman, I move we adjourn.

The CHAIRMAN: Is it proposed that we send this amendment to the provinces?

Senator VIEN: I have suggested that a copy of the amendment, a copy of the Order in Council, the Statutes of 1912, and the Territorial Lands Act, Chapter 253 of the Revised Statutes, be sent to all concerned and to members of this committee.

The CHAIRMAN: Honourable senators, what is your wish in this respect?

Hon. SENATORS: Agreed.

The committee adjourned to the call of the Chair.



















